

AMENDED IN ASSEMBLY JULY 2, 2003

SENATE BILL

No. 440

**Introduced by ~~Committee on Public Employment and Retirement~~
~~(Senators Soto (Chair), Karnette, and Scott)~~ Senator Burton**
(Principal coauthor: Assembly Member Wiggins)
(Coauthors: **Senators Ducheny, Perata, Romero, and Soto**)
(Coauthors: Assembly Members Cohn, Diaz, Hancock, Koretz, Leno,
Longville, Maddox, Maldonado, Samuelian, and Strickland)

February 20, 2003

~~An act relating to state employees, and declaring the urgency thereof,
to take effect immediately. An act to amend Section 1299.7 of the Code
of Civil Procedure, relating to public employment relations.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 440, as amended, ~~Committee on Public Employment and Retirement~~ Burton. ~~State employees: memorandum of understanding~~ Employer-employee relations: law enforcement officers and firefighters.

Existing law provides that if an impasse has been declared after the representatives of an employing county, city, city and county, special district, or other political subdivision of the state and representatives of firefighters or law enforcement officers have exhausted their mutual efforts to reach agreement over economic issues as defined within the scope of arbitration and the parties are unable to agree to the appointment of a mediator or the mediator is unable to effect a settlement, the employee organization may request, by written notification to the employer, that their differences be submitted to an arbitration panel, as specified. Existing law provides that after specified procedures are followed the arbitration panel's decision is

binding upon the parties. The California Supreme Court has held that law unconstitutional in County of Riverside v. Superior Court.

This bill would instead provide that the governing body of the employer agency may, by unanimous vote, reject the decision of the arbitration panel's, except as specifically provided to the contrary in a city, county, or city and county charter with respect to the rejection of an arbitration award.

~~Existing law provides that if any provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act.~~

~~This bill would approve provisions that require the expenditure of funds of a memorandum of understanding entered into between the state employer and an unspecified employee organization, and would provide that the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.~~

~~This bill would provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would provide that if funds for these provisions are not specifically appropriated by the Legislature, the state employer, and the affected employee organization shall meet and confer to renegotiate the affected provisions.~~

~~The bill would also declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ majority. Appropriation: no. Fiscal committee: ~~yes~~ no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—The Legislature finds and declares that the~~
- 2 ~~SECTION 1. Section 1299.7 of the Code of Civil Procedure is~~
- 3 ~~amended to read:~~
- 4 1299.7. (a) The arbitration panel shall mail or otherwise
- 5 deliver a copy of the decision to the parties. However, the decision
- 6 of the arbitration panel shall not be publicly disclosed, and shall

1 not be binding, for a period of five days after service to the parties.
2 During that five-day period, the parties may meet privately,
3 attempt to resolve their differences and, by mutual agreement,
4 amend or modify the decision of the arbitration panel.

5 (b) At the conclusion of the five-day period, which may be
6 extended by the parties, the arbitration panel's decision, as may be
7 amended or modified by the parties pursuant to subdivision (a),
8 shall be publicly disclosed and, *unless the governing body acts in*
9 *accordance with subdivision (c)*, shall be binding on all parties,
10 and, if specified by the arbitration panel, be incorporated into and
11 made a part of any existing memorandum of understanding as
12 defined in Section 3505.1 of the Government Code.

13 (c) *The employer may by unanimous vote of all the members of*
14 *the governing body reject the decision of the arbitration panel,*
15 *except as specifically provided to the contrary in a city, county, or*
16 *city and county charter with respect to the rejection of an*
17 *arbitration award.*

18 SEC. 2. (a) *The Legislature finds and declares all of the*
19 *following:*

20 (1) *Existing law declares that local government boards,*
21 *councils, and other public agencies exist to aid in the conduct of*
22 *the people's business and that their actions in the conduct of that*
23 *business be taken openly and their deliberation on matters*
24 *effecting that business be conducted openly.*

25 (2) *Existing law declares that the people in delegating*
26 *authority to local government boards, councils, and other public*
27 *agencies, do not give their public servants the right to decide what*
28 *is good for the people to know and what is not good for them to*
29 *know, and existing law also declares that the people insist the local*
30 *government actions be taken openly and deliberations of local*
31 *government be conducted openly.*

32 (3) *Existing law authorizes local government to provide for the*
33 *compensation of its employees. The people have an interest in how*
34 *local government boards, councils, and other public agencies*
35 *implement that authority.*

36 (b) *It is the intent of the Legislature in enacting this act to do*
37 *all of the following:*

38 (1) *Ensure that where representatives of local government*
39 *employers and firefighters or law enforcement officer employees*
40 *have exhausted their mutual efforts to reach agreement over*

1 compensation issues, the people are informed of how local
2 government boards, councils, and other public agency employers
3 use that authority given them by law to resolve the dispute and
4 relieve the impasse.

5 (2) Establish procedures by which notice of the impasse will
6 come before local government boards, councils, and other public
7 agencies in an open and public manner and to establish procedures
8 whereby those boards, councils, and other public agencies will be
9 required to deliberate openly alternative actions designed to
10 resolve the dispute and relieve the impasse.

11 (3) Further, the public interest in open government by requiring
12 local government boards, councils, and other public agencies,
13 which are employers of firefighters and law enforcement officers,
14 to conduct an open proceeding at which they may choose to adopt
15 procedures to resolve the dispute and relieve the impasse and to
16 debate and deliberate publicly alternatives available to them.

17 (4) Make Title 9.5 (commencing with Section 1299) of Part 3
18 of the Code of Civil Procedure consistent with the decision of the
19 California Supreme Court in *County of Riverside v. Superior Court*
20 (2003) 30 Cal.4th 278.

21 ~~purpose of this act is to approve an agreement pursuant to Section~~
22 ~~3517 of the Government Code entered into by the state employer~~
23 ~~and an unspecified employee organization.~~

24 SEC. 2. ~~The provisions of the memorandum of understanding~~
25 ~~prepared pursuant to Section 3517.5 of the Government Code and~~
26 ~~entered into by the state employer and State Bargaining Unit _____,~~
27 ~~and that require the expenditure of funds, are hereby approved for~~
28 ~~the purposes of Section 3517.6 of the Government Code.~~

29 SEC. 3. ~~The provisions of the memorandum of understanding~~
30 ~~approved by Section 2 of this act that are scheduled to take effect~~
31 ~~on or after July 1, 2003, and that require the expenditure of funds,~~
32 ~~shall not take effect unless funds for these provisions are~~
33 ~~specifically appropriated by the Legislature. In the event that funds~~
34 ~~for these provisions are not specifically appropriated by the~~
35 ~~Legislature, the state employer and the affected employee~~
36 ~~organization shall meet and confer to renegotiate the affected~~
37 ~~provisions.~~

38 SEC. 4. ~~Notwithstanding Section 3517.6 of the Government~~
39 ~~Code, the provisions of any memorandum of understanding that~~
40 ~~require the expenditure of funds shall become effective even if the~~

1 ~~provisions of the memorandum of understanding are approved by~~
2 ~~the Legislature in legislation other than the annual Budget Act.~~

3 ~~SEC. 5. This act is an urgency statute necessary for the~~
4 ~~immediate preservation of the public peace, health, or safety~~
5 ~~within the meaning of Article IV of the Constitution and shall go~~
6 ~~into immediate effect. The facts constituting the necessity are:~~

7 ~~In order for the provisions of this act to be applicable as soon as~~
8 ~~possible in the 2003-04 fiscal year, and thereby facilitate the~~
9 ~~orderly administration of state government at the earliest possible~~
10 ~~time, it is necessary that this act take effect immediately.~~

